

HONOURABLE SRI JUSTICE GODA RAGHURAM
AND
HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.9518 OF 2006

Dated:09.05.2006

Between:

Avanthi Leathers Ltd., Kambakkam Village,
Chittor District repled by its Managing
Director-K.Vijay Kumar.

..... PETITIONER

AND

Authorised Officer, Corporation Bank,
Armenian Street, Chennai and four others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE GODA RAGHURAM
AND
HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO.9518 OF 2006

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ORDER: *(per Hon'ble Sri Justice Goda Raghuram)*

Heard Sri B.Nalin Kumar, learned counsel for the petitioner and Sri M.V.Durga Prasad, learned counsel for the first respondent-bank.

Admittedly, the petitioner obtained a loan from the first and second respondent-banks and defaulted. The first respondent-bank was a lead bank. Aggrieved, the first respondent-bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Investments of Security Interest Act, 2002 (for short 'the Act'), by issuing a notice under Section-13 (2) of the Act on 03.06.2005. The petitioner responded to the notice disputing the extent of the liability. Thereupon, the first respondent-bank by proceedings, dated 15.10.2005, proceeded to take possession of the properties of the petitioner at Chittoor being one of the items of the properties mortgaged to the consortium of banks. Assailing the same, the petitioner filed S.A.No.156 of 2005 before the Debt Recovery Tribunal, Hyderabad, Andhra Pradesh (for short 'Tribunal'), under Section-17 of the Act assailing the proceedings initiated under Section-13 (4) of the Act in respect of Chittoor properties. While so, on 17.10.2005, the first respondent-bank representing the second respondent-bank too proceeded to take steps under Section-13 (4) of the Act in respect of the another mortgaged property of the petitioner at Chennai. Thereupon, the petitioner filed an application before the Tribunal seeking stay of all further proceedings of taking possession and sale of Chennai property by way of I.A.No.987 of 2005. By the order, dated 09.12.2005, the Tribunal recorded the statement of the first respondent-bank that it will not confirm the sale held on 12.12.2005 in respect of the secured assets at Chennai. Thereafter, after recording the above, the Tribunal permitted the first respondent-bank to go on with the auction, but interdicting the confirmation of the sale till 16.12.2005. In respect of Chittoor property, the sale could not be held for reasons not germane to this writ petition. On 16.12.2005, the earlier order, dated 09.12.2005, directing the first respondent-bank not to confirm the sale of Chennai property, was extended until

further orders. Aggrieved thereby, the respondent-banks preferred an appeal to the Debt Recovery Appellate Tribunal at Chennai (for short 'Appellate Tribunal'). By the order impugned herein, dated 17.04.2006, the Appellate Tribunal while recording that the sale of Chennai property was held on 15.02.2006 and the auction purchaser there at had also deposited 25% of the sale amount, and as the borrower-petitioner herein does not dispute the substantive liability between the parties, but only disputes the extent of the liability, no fruitful result would ensue in not confirming the sale as third party interest had already been created in respect of Chennai property, allowed the appeal of the respondent-banks and permitted confirmation of the sale and issue of sale certificate in favour of the auction purchaser. The third respondent herein is the auction purchaser in respect of Chennai property.

In the facts and circumstances of the case, this Court is of considered view that the confirmation of sale of Chennai property in favour of the third respondent ought not to be postponed interminably. Therefore, the order of the Appellate Tribunal, dated 17.04.2006, does not appear perverse or wholly irrational on that account. Nevertheless, as the petitioner's substantive Appeal, S.A.No.156 of 2005, is pending consideration before the Tribunal, the third respondent-auction purchaser must be interdicted from altering the physical features of the property pending disposal of S.A.No.156 of 2005 and the Tribunal must dispose of S.A.No.156 of 2005 with utmost expedition so as not to complicate the rights and entitlements of the parties further.

On the aforesaid reasoning, while dismissing the writ petition, the third respondent is directed not to alter the physical features of the property purchased by it and the second respondent-bank is directed to include this condition while confirming the sale in favour of the third respondent. The confirmation of the sale will be subject to the result of S.A.No.156 of 2005. The Tribunal shall expeditiously, and in any event, within a period of three months from the date of receipt of a copy of this order, dispose of S.A.No.156 of 2005, and if

any party without reasonable cause tries to protract the disposition of S.A.No.156 of 2005, the Tribunal will be at liberty to proceed *ex parte* also or fix such timeframes for the trial of S.A.No.156 of 2005 as would conduce the disposition of S.A.No.156 of 2005 within the time ordained by this Court above.

The Writ Petition is disposed of as above. There shall be no order as to costs.

GODA RAGHURAM, J

09.05.2006

DR/PNB

M.VENKATESWARA REDDY, J